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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,105	08/24/2001	Bijan Treister	52637-0029	3365

29989 7590 06/01/2007  
HICKMAN PALERMO TRUONG & BECKER, LLP  
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SAN JOSE, CA 95110

EXAMINER
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WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

MAIL DATE	DELIVERY MODE
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06/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/939,105

Applicant(s)

TREISTER ET AL.

Examiner

John B. Walsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on amdt of 2/8/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,9,13-20,23,24,28-34 and 38-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,9,13-20,23,24,28-34 and 38-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/8/2005.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3 and 18 are objected to because of the following informalities: Claim 3, lines 3-4 and claim 18, lines 4-5 recites "prior to a failure of the second participant that prevents the first participant...assigned to the first participant". It is unclear if the first participant should be rewritten as the second participant. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5, 8, 9, 13-18, 20, 23, 24, 28-31, 33, 34 and 38-52 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pub. No. 2005/0223115 to Hanson et al. (priority date of Oct. 9, 1998).

As concerns claims 1, 16 and 31, a first participant (0024-mobile end system); one or more functions (communication-receiving/transmitting messages); a second participant (mobility management server); handoff criteria (becomes unreachable, suspends or changes address); the first participant communicating directly with the second participant (0028,0029,0030-messages between mobile end system and server); assigning the functions to the second participant (0024-maintains connection) (paragraphs 0024, 0028 and 0029).

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As concerns claims 2, 17 and 39, unassigning the first participant (becomes unreachable, suspends or changes address); a single wireless connection (figure 1; comprises a single wireless connection within the communication connection).

As concerns claims 3, 18 and 40, a third participant (first and third may comprise the same participant and labeled differently at different points in time; paragraphs 0077 and 0080-first/third resumes communication).

As concerns claims 5, 20 and 41, a time period (inherent for function to take place during a period of time; see also paragraph 0017).

As concerns claims 8, 23 and 33, a mobile device (figure 1, 104a).

As concerns claims 9, 24, 34, 46, 49 and 52, the first participant not communicating or a failure (see paragraphs 0024- becomes unreachable, suspends or changes address; see also 0051-timer, 0052, 0077 and 0137).

As concerns claims 13, 28 and 38, the terms "master participant", "slave participant" and "associate master participant" are mere labels and only the functions of the associated structure have been considered as further limiting which have been addressed in the rejection of claim 1.

As concerns claims 14 and 29, the second participant is designated by the first participant (see paragraph 0080, lines 1-4; see also 0028,0029,0030-messages between mobile end system and server).

As concerns claims 15 and 30, the second participant is designated by other than the first participant (the second participant may designate itself; also multiple mobile end systems which can be other than the first; see also abstract).

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As concerns claims 42 and 43, it is inherent within the definition of “the mechanism designating” that it will provide for “the mechanism selecting”.

As concerns claims 44, 45, 47, 48, 50 and 51, packets (inherent within TCP/IP network communication to have data sent in packets/frames; paragraph 0031).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 19 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2005/0223115 to Hanson et al. as applied above in view of GAN et al.

Hanson et al. '115 do not explicitly disclose a frequency hopping protocol.

GAN et al. teach a frequency hopping protocol (see entire document).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of Hanson et al. '115 with a frequency hopping protocol, as taught by GAN et al., in order to provide a communication protocol that is less prone to interference.

***Response to Arguments***

6. Applicant's arguments filed February 8, 2007 have been fully considered but they are not persuasive.

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The applicant argues Hanson fails to disclose "one or more functions" assigned to a first participant and then that those "one or more functions" are assigned to the second participant when the handoff criteria are satisfied. The examiner disagrees since Hanson discloses at least "one or more functions" wherein one function can be receiving a message (see 0024, 0028), assigned to a first participant and then that those "one or more functions" are assigned to the second participant when the handoff criteria are satisfied (see above rejection).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

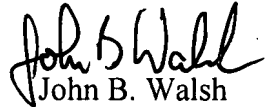
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 7:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
John B. Walsh  
Primary Examiner  
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